



OFFICE OF THE POLICE COMMISSIONER
ONE POLICE PLAZA • ROOM 1400

July 15, 2014

Memorandum for: Deputy Commissioner, Trials

Re: **Lieutenant Glenn Hagelstein**
Tax Registry No. 906399
102 Precinct
Disciplinary Case No. 2012-6769

GHANI

The above named member of the service appeared before Assistant Deputy Commissioner David S. Weisel on February 18, 2014, and was charged with the following:

DISCIPLINARY CASE NO. 2011-5515

1. Said Lieutenant Glenn Hagelstein, while assigned to the 102nd Precinct, on or about June 19, 2011, at about 0230 hours, while off-duty, in the vicinity of said Lieutenant's residence in Suffolk County, New York, having been involved in an unusual police occurrence, wrongfully did fail and neglect to notify promptly the Department's Operations unit, as required.

PG 212-32, Page 1, Note

**OFF DUTY INCIDENTS INVOLVING
UNIFORMED MEMBERS OF THE
SERVICE COMMAND OPERATIONS**

2. Said Lieutenant Glenn Hagelstein, while assigned to the 102nd Precinct, on or about June 19, 2011, at about 0230 hours, while off-duty, in the vicinity of said Lieutenant's residence in Suffolk County, New York, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Lieutenant wrongfully was involved in a physical altercation with Person A.

PG 203-10, Page 1, Paragraph 5

**PUBLIC CONTACT -PROHIBITED
CONDUCT
GENERAL REGULATIONS**

In a Memorandum dated April 23, 2014, Assistant Deputy Commissioner David S. Weisel found Lieutenant Hagelstein Guilty, after he pleaded Guilty, of Specification Nos. 1 and 2 in Disciplinary Case No. 2012-6769.

Having read the Memorandum and analyzed the facts of this matter, I approve the findings, but disapprove the penalty. Lieutenant Hagelstein was found Guilty of serious misconduct which was connected to his use of alcohol, and this was Lieutenant Hagelstein's second disciplinary matter in four years which related to his use of alcohol.

It is therefore directed that Lieutenant Hagelstein be offered a post-trial negotiated agreement in which he shall forfeit thirty (30) vacation days, be placed on a One-Year Dismissal Probation period and be made the subject of Ordered Breath Testing, as a disciplinary penalty. If Lieutenant Hagelstein does not agree to the terms of this post-trial negotiated agreement as noted, this Office is to be notified without delay.


William J. Bratton
Police Commissioner



POLICE DEPARTMENT

April 23, 2014

MEMORANDUM FOR: Police Commissioner

Re: Lieutenant Glenn Hagelstein
Tax Registry No. 906399
102 Precinct
Disciplinary Case No. 2012-6769

The above-named member of the Department appeared before the Court on February 18, 2014, charged with the following:

1. Said Lieutenant Glenn Hagelstein, while assigned to the 102nd Precinct, on or about June 19, 2011, at about 0230 hours, while off-duty, in the vicinity of said Lieutenant's residence in Suffolk County, New York, having been involved in an unusual police occurrence, wrongfully did fail and neglect to notify promptly the Department's Operations Unit, as required.

P.G. 212-32, Page 1, Note – OFF DUTY INCIDENTS INVOLVING
UNIFORMED MEMBERS OF THE SERVICE
COMMAND OPERATIONS

2. Said Lieutenant Glenn Hagelstein, while assigned to the 102nd Precinct, on or about June 19, 2011 at about 0230 hours, while off-duty, in the vicinity of said Lieutenant's residence in Suffolk County, New York, did engage in conduct prejudicial to the good order, efficiency, or discipline of the Department, in that said Lieutenant wrongfully was involved in a physical altercation with Person A.

P.G. 203-10, Page 1, Paragraph 5 – PUBLIC CONTACT – PROHIBITED
CONDUCT - GENERAL REGULATIONS

The Department was represented by David H. Green, Esq., Department Advocate's Office. Respondent was represented by James Moschella, Esq., Karasyk & Moschella LLP.

Respondent pleaded Guilty to the subject charges and testified in mitigation of the penalty. A stenographic transcript of the mitigation record has been prepared and is available for the Police Commissioner's review.

DECISION

Respondent, having pleaded Guilty, is found Guilty.

SUMMARY OF EVIDENCE IN MITIGATION

Respondent had been a member of the New York City Police Department (NYPD) for 20 years. On June 19, 2011, Respondent went out with Person A, and some friends to celebrate Person A's dance recital. [REDACTED]

[REDACTED]

Respondent estimated that over two to three hours, he had three to four beers as well as several non-alcoholic beverages. Person A had four to five drinks and also had shots of liquor. Respondent asserted that she was intoxicated but he was not. Starting at dinner, Person A grew upset with Respondent because he was planning on going away for a bachelor party with his friends. Person A was "very aggressive" and was arguing, screaming and cursing. Respondent characterized this as unusual for both of them.

When they arrived back home, Respondent and Person A went to their backyard, where she continued screaming and cursing. "And then out of nowhere," she punched Respondent in the nose twice. Respondent felt that she was going to hit him again, so he pushed her to the side and she ran inside. She did not fall down or hit any part of her body when Respondent pushed her.

Respondent testified that Person A called the Suffolk County Police Department (SCPD) while he remained outside. He “didn’t want to go anywhere near her” out of concern that she would yell and physically attack him further. Respondent “was in shock of this whole incident.” Prior to this, he and Person A never had been in a physical altercation in the 20 years they had been together.

The police arrived a few minutes later. The SCPD officers interviewed Respondent and Person A separately. They asked Respondent if she “assaulted” him but he denied it. Respondent testified that the whole incident was “just a big embarrassment” and he did not want to get Person A into any trouble. Respondent contended that Person A admitted to the officers that she struck him but they did not arrest her.

When Respondent told the officers that he had three beers that evening, the officer told him “you definitely seem and look fit for duty, I don’t smell alcohol on your breath. I see this as a verbal dispute, and there is going to be no paperwork.” At the officer’s request, Respondent agreed to spend the night in a local hotel so as to avoid another altercation. The officers drove Respondent to a hotel, where he spent the remainder of the night.

Respondent conceded that he did not notify the NYPD that the officers had been to his house. Respondent said that he was embarrassed and that the SCPD sergeant told him it was “just a verbal dispute.” As a result, Respondent did not think he had to report the incident to the Department. Respondent maintained, nevertheless, that if he “wasn’t so shocked and embarrassed” and was “in the right state of mind,” he probably would have followed the Patrol Guide and notified Operations.

Operations eventually was notified, however. Upon examination by the Court, Respondent explained that he believed the SCPD notified them. Respondent was placed on

modified duty. He complied with orders and completed a 28-day inpatient alcohol treatment program. He also went for 52 weeks of outpatient therapy at [REDACTED] three times a week. During that year, Respondent was subject to weekly alcohol and drug testing, all of which were negative. Respondent also went to the Counseling Services Unit (CSU) for further treatment. Respondent eventually was restored to full duty.

Respondent admitted that in September 2005, he helped a woman who entered his precinct station house, asking for a specific sergeant and wishing to file a complaint arising from a domestic incident. The woman, actually an undercover officer (UC) working as part of an Internal Affairs Bureau integrity test targeting someone else, alleged that the officer who responded to her complaint failed to take a report. After Respondent helped the woman, she called the next day to thank him for his help. This never had happened to Respondent before. Respondent admitted that he asked her out on a date, which she declined. Respondent testified that he received charges and specifications for this and accepted a forfeiture of 15 vacation days.

Several years later, in 2008, Respondent went out for drinks with friends after work. He was working the next day and so he took the train back to his command and slept on the couch in his office. He "didn't want to drive, I was tired, and in my best judgment I wasn't going to drive at that time." He was not armed. The next morning, the duty captain woke him up. Although the captain smelled alcohol on Respondent's breath, Respondent asserted at trial that he had spilled a beer on his shirt the night before. He admitted to the duty captain that he had gone drinking. The captain found him unfit for duty and suspended him.

Respondent pleaded guilty to charges and specifications. The penalty included the time on suspension, an additional 30 vacation days, and one year of dismissal probation. He again

went, as mandated, to an inpatient treatment program and outpatient counseling with CSU. Twelve to eighteen months later, Respondent was returned to full duty.

Since June 19, 2011, Respondent and Person A had not been involved in any further domestic incidents and they had a healthy and positive relationship.

Respondent contended that dismissal probation was not warranted in his case because he successfully completed "what needed to be completed" for himself and his health. He maintained that he was healthy enough to continue his life the way it was.

On cross examination, Respondent stated that on June 19, 2011, he consumed the three to four beers over the course of 90 minutes. Person A had as much beer as he had and she consumed a few additional shots of liquor. Respondent claimed that he did not feel the effects of the alcohol because after every beer, he would drink a glass of water and was eating food.

Respondent contended that he did not see the domestic incident report (DIR) prepared by the responding SCPD officers.

Respondent asserted that, even after completing the therapy, he did not believe he had an alcohol dependency or abuse problem. [REDACTED]

Respondent admitted that he was the desk officer during the 2005 integrity test. He apologized to the UC for any offensive remarks that the responding officer might have made. Respondent did not process a civilian complaint on her behalf but offered further assistance if necessary. Respondent was charged not only for asking her out but also for failing to take the proper reports.

On May 31, 2008, Respondent actually was found sleeping in the lounge of Transit District 30. When he pleaded guilty, the plea included other charges that he received while assigned there. These were of the time-leave sort: changing and swapping of tours, and

beginning his tour at a different command. The penalty was 55 days, one year of dismissal probation, counseling and breath testing. Respondent attended inpatient treatment at the [REDACTED]

On re-direct examination, Respondent explained that he was in the restaurant on June 19, 2011, for "close to three to four hours." Prior to the two or two-and-a-half hours that he was consuming alcohol, he only was drinking water. The last alcoholic beverage that Respondent consumed before the incident with Person A was a "few hours" earlier.

Upon questioning by the Court, Respondent claimed not to be aware that the SCPD officers were going to prepare a DIR. When asked if, "as a police officer, [he] knew that it would be standard procedure under those circumstances to write a DIR, I mean, if the police responded to a domestic incident?," Respondent answered that he knew it was NYPD "policy" to do so but not for the SCPD. When asked if he thought that SCPD procedure would be different, he insisted, "I don't know what their policy is."

PENALTY

In order to determine an appropriate penalty, Respondent's service record was examined. See Matter of Pell v. Board of Educ., 34 N.Y.2d 222, 240 (1974). Respondent was appointed to the Department on August 30, 1993. Information from his personnel folder that was considered in making this penalty recommendation is contained in the attached confidential memorandum.

Respondent has pleaded Guilty to being involved in a physical altercation with Person A. The incident occurred after the two got into an argument at a group dinner. Both were drinking; Respondent said that he had three or four beers. Once home at their residence in [REDACTED] they continued arguing. Respondent testified that Person A punched him twice and he pushed her

away in response. She called 911 and the SCPD responded. Respondent duly identified himself as a member of the service. No arrests were made, but the police advised Respondent that he should leave the residence. They gave him a ride to a hotel. Respondent testified that he did not know a DIR would be prepared. He asserted that while this would be the practice for the NYPD, he did not know the SCPD's practices.

Respondent has pleaded Guilty and acknowledged his responsibility in this case. The only issue is punishment. The Advocate recommended a penalty of the loss of 30 vacation days and the imposition of dismissal probation for a period of one year. Respondent urged that the penalty involve the loss of any reasonable amount of days but not dismissal probation.

It was undisputed that as a result of this case Respondent participated in and successfully completed the Department's alcohol treatment program. The Advocate argued that dismissal probation was an important component of the penalty as it was the best way to ensure that Respondent would comply with ongoing random alcohol testing both on and off duty. The Advocate also contended that probation was justified by the nature of Respondent's conduct and continuing pattern of misconduct.

Two of Respondent's prior cases were noted specifically. One, from 2005, involved an integrity test. Respondent committed several errors when a female undercover officer came into his precinct. The UC said that a police officer had responded to her call for assistance, but failed to take a complaint and used offensive language. Respondent's current recollection was that he got some information from the UC but did not take a civilian complaint. The UC called Respondent the next day, apparently to follow up on what, if anything, he was doing about her complaint. Respondent testified that the UC thanked him for his help. Nothing like that had happened to him before on the job. He thought that she was friendly and asked her out on a date.

The second case, from 2008, involved alcohol use. Respondent testified that he went out with friends off-duty and consumed several drinks. He was intoxicated or at least impaired and did not want to drive home. Instead, he went to his station house and slept, intending to wake up and report for his next tour. Apparently he did not wake up and instead was roused by a supervisor. He still was drunk and was found unfit for duty. In that case, he pleaded guilty and negotiated a penalty of the forfeiture of 55 days and placement on one year of dismissal probation. He also was required to cooperate with counseling and to submit to breath testing. He testified in the instant hearing, without rebuttal, that he had completed this treatment successfully.

In the instant case, although Respondent maintains now that he was not intoxicated during the incident with Person A, and that his alcohol use in no way contributed to the argument, he still duly complied with CSU's orders to enter treatment. That consisted of inpatient and outpatient treatment, as well as CSU sessions. He also complied with ordered breath testing. Respondent now asserts that no further period of monitoring is necessary.

Respondent argued that dismissal probation means the offense is termination-worthy but this ultimate penalty is being held in abeyance. That may be true in a technical sense probation is not a punishment per se. But it also is true that probation may be imposed where the officer's prior disciplinary record indicates that prior penalties have not led to improved conduct, or where the facts indicate that the officer again will engage in misconduct. See Case No. 2011-5299, pp. 9-10 (Dec. 17, 2012).

Much was said about the possibility of future ordered breath testing. This tribunal cannot impose breath testing as a part of the penalty, as it is not contained in the list of authorized penalties in Administrative Code § 14-115 (a). The focus here instead should be on whether a

period of further monitoring of Respondent is necessary in light of his prior record and the instant case.

While Respondent is a long-serving, dedicated Department member and supervisor, this is his third major infraction in less than a decade and the second in four years involving quite a bit of alcohol consumption. The tribunal cannot credit Respondent's assertion that his three or four beers did not contribute to the incident, or his suggestion that the duty captain in the sleeping incident smelled alcohol on him merely because he had spilled beer on himself. In fact, this dissembling only leads to the conclusion that Respondent has not come to terms with his alcohol problem. Also incredible was Respondent's assertion that he did not suffer from alcohol abuse. This is the second time that his drinking has led to adverse employment consequences for him. It has led to poor decisions and at the very least factored into the police response to his residence.

In sum, Respondent's prior misconduct in tandem with the instant proceeding is troubling enough that dismissal probation is warranted. This will ensure close monitoring of Respondent's future conduct and will serve to enforce the seriousness of these continuing breaches.

Accordingly, the Court recommends that Respondent be DISMISSED from the New York City Police Department, but that his dismissal be held in abeyance for a period of one year, pursuant to Administrative Code §14-115 (d), during which time he is to remain on the force at the Police Commissioner's discretion and may be terminated at any time without further proceedings. The Court further recommends that Respondent forfeit 30 vacation Days.



Respectfully submitted,

David S. Weisel

Assistant Deputy Commissioner – Trials

POLICE DEPARTMENT
CITY OF NEW YORK

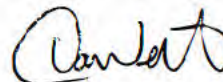
From: Assistant Deputy Commissioner – Trials
To: Police Commissioner
Subject: CONFIDENTIAL MEMORANDUM
LIEUTENANT GLENN HAGELSTEIN
TAX REGISTRY NO. 906399
DISCIPLINARY CASE NO. 2012 6769

Respondent's last three annual evaluations were as follows: he received an overall rating of 4.0 "Highly Competent" in 2013, 2012 and 2011. He has one medal for Excellent Police Duty, two for Meritorious Police Duty, one Commendation, one Honorable Mention, and one Medal for Merit/Valor. [REDACTED]
[REDACTED]

From 2007 to 2009, Respondent was placed on disciplinary monitoring. He was suspended or placed on modified assignment in June 2008, and he was placed on dismissal probation from May 2009 to September 2010.

In 2005, Respondent forfeited 15 vacation days for failing to take a civilian complaint. In 2009, he forfeited a total of 55 penalty days, was placed on one-year dismissal probation, and attended counseling, for having been unfit for duty [REDACTED] making false entries in Department records, changing his assigned tour, swapping his regular day off, and failing to report sexually explicit or inappropriate writings that were in his Activity Log.

For your consideration.



David S. Weisel
Assistant Deputy Commissioner Trials